

By: Representative Gunn

To: Judiciary A;
Appropriations

HOUSE BILL NO. 116

1 AN ACT TO AMEND SECTION 9-1-105, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE APPOINTMENT OF SPECIAL JUDGES TO ASSIST TRIAL COURT
3 DISTRICTS REDUCE CASE LOADS; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 9-1-105, Mississippi Code of 1972, is
6 amended as follows:

7 * * *

8 9-1-105. (1) (a) Whenever any judicial officer is
9 unwilling or unable to hear a case or unable to hold or attend any
10 of the courts at the time and place required by law by reason of
11 the physical disability or sickness of such judicial officer, by
12 reason of the absence of such judicial officer from the state, by
13 reason of the disqualification of such judicial officer pursuant
14 to the provision of Section 165, Mississippi Constitution of 1890,
15 or any provision of the Code of Judicial Conduct, or for any other
16 reason, the Chief Justice of the Mississippi Supreme Court, with
17 the advice and consent of a majority of the justices of the
18 Mississippi Supreme Court, shall appoint a person as a special
19 judge to hear the case or attend and hold a court.

20 (b) If the Chief Justice determines that the docket in
21 a circuit or chancery court district has a backlog of cases he
22 shall appoint a special judge or judges from another district to
23 assist the district in reducing such backlog.

24 (2) Upon the request of the Chief Judge of the Court of
25 Appeals or the senior judge of a chancery or circuit court
26 district, or upon his own motion, the Chief Justice of the
27 Mississippi Supreme Court, with the advice and consent of a



28 majority of the justices of the Mississippi Supreme Court, shall
29 have the authority to appoint a special judge to serve on a
30 temporary basis in a circuit or chancery court in the event of an
31 emergency or overcrowded docket. It shall be the duty of any
32 special judge so appointed to assist the court to which he is
33 assigned in the disposition of causes so pending in such court for
34 whatever period of time is designated by the Chief Justice.

35 (3) When a vacancy exists for any of the reasons enumerated
36 in Section 9-1-103, the vacancy has not been filled within seven
37 (7) days by an appointment by the Governor, and there is a pending
38 cause or are pending causes in the court where the vacancy exists
39 that in the interests of justice and in the orderly dispatch of
40 the court's business require the appointment of a special judge,
41 the Chief Justice of the Supreme Court, with the advice and
42 consent of a majority of the justices of the Mississippi Supreme
43 Court, may appoint a qualified person as a special judge to fill
44 the vacancy until the Governor makes his appointment and such
45 appointee has taken the oath of office.

46 (4) If the Chief Justice pursuant to this section shall make
47 an appointment within the authority vested in the Governor by
48 reason of Section 165, Mississippi Constitution of 1890, the
49 Governor may at his election appoint a person to so serve. In the
50 event that the Governor makes such an appointment, any appointment
51 made by the Chief Justice pursuant to this section shall be void
52 and of no further force or effect from the date of the Governor's
53 appointment.

54 (5) When a judicial officer is unwilling or unable to hear a
55 case or unable or unwilling to hold court for a period of time not
56 to exceed two (2) weeks, the trial judge or judges of the affected
57 district or county and other trial judges may agree among
58 themselves regarding the appointment of a person for such case or
59 such limited period of time. The trial judges shall submit a
60 notice to the Chief Justice of the Supreme Court informing him of



61 their appointment. If the Chief Justice does not appoint another
62 person to serve as special judge within seven (7) days after
63 receipt of such notice, the person designated in such order shall
64 be deemed appointed.

65 (6) A person appointed to serve as a special judge may be
66 any currently sitting or retired chancery, circuit or county court
67 judge, Court of Appeals judge or Supreme Court Justice, or any
68 other person possessing the qualifications of the judicial office
69 for which the appointment is made; provided, however, that a judge
70 or justice who was retired from service at the polls shall not be
71 eligible for appointment as a special judge in the district in
72 which he served prior to his defeat.

73 (7) Except as otherwise provided in subsection (2) of this
74 section, the need for an appointment pursuant to this section may
75 be certified to the Chief Justice of the Mississippi Supreme Court
76 by any attorney in good standing or other officer of the court.

77 (8) The order appointing a person as a special judge
78 pursuant to this section shall describe as specifically as
79 possible the duration of the appointment.

80 (9) A special judge appointed pursuant to this section shall
81 take the oath of office, if necessary, and shall, for the duration
82 of his appointment, enjoy the full power and authority of the
83 office to which he is appointed.

84 (10) Any currently sitting justice or judge appointed as a
85 special judge under this section shall receive no additional
86 compensation for his or her service as special judge. Any other
87 person appointed as a special judge hereunder shall, for the
88 period of his service, receive compensation from the state for
89 each day's service a sum equal to 1/260 of the current salary in
90 effect for the judicial office; provided, however, that no retired
91 chancery, circuit or county court judge, retired Court of Appeals
92 judge or any retired Supreme Court Justice appointed as a special
93 judge pursuant to this section may, during any fiscal year,



94 receive compensation in excess of twenty-five percent (25%) of the
95 current salary in effect for a chancery or circuit court judge.
96 Any person appointed as a special judge shall be reimbursed for
97 travel expenses incurred in the performance of the official duties
98 to which he may be appointed hereunder in the same manner as other
99 public officials and employees as provided by Section 25-3-41,
100 Mississippi Code of 1972.

101 (11) If any person appointed as such special judge is
102 receiving retirement benefits by virtue of the provisions of the
103 Public Employees' Retirement Law of 1952, appearing as Sections
104 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits
105 shall not be reduced in any sum whatsoever because of such
106 service, nor shall any sum be deducted as contributions toward
107 retirement under said law.

108 (12) The Supreme Court shall have authority to prescribe
109 rules and regulations reasonably necessary to implement and give
110 effect to the provisions of this section.

111 (13) Nothing in this section shall abrogate the right of
112 attorneys engaged in a case to agree upon a member of the bar to
113 preside in a case pursuant to Section 165 of the Mississippi
114 Constitution of 1890.

115 (14) The Supreme Court shall prepare the necessary payroll
116 for special judges appointed pursuant to this section and shall
117 submit such payroll to the Department of Finance and
118 Administration.

119 (15) Special judges appointed pursuant to this section shall
120 direct requests for reimbursement for travel expenses authorized
121 pursuant to this section to the Supreme Court and the Supreme
122 Court shall submit such requests to the Department of Finance and
123 Administration. The Supreme Court shall have the power to adopt
124 rules and regulations regarding the administration of travel
125 expenses authorized pursuant to this section.



126 **SECTION 2.** The Attorney General of the State of Mississippi
127 shall submit this act, immediately upon approval by the Governor,
128 or upon approval by the Legislature subsequent to a veto, to the
129 Attorney General of the United States or to the United States
130 District Court for the District of Columbia in accordance with the
131 provisions of the Voting Rights Act of 1965, as amended and
132 extended.

133 **SECTION 3.** This act shall take effect and be in force from
134 and after the date it is effectuated under Section 5 of the Voting
135 Rights Act of 1965, as amended and extended.

